

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

DARREL LEE WILBER,)
Plaintiff,)
v.) No. 4:11CV1736 JCH
UNITED STATES OF AMERICA,)
Defendant.)

MEMORANDUM AND ORDER

This matter is before the Court upon its own motion. Plaintiff has submitted a complaint against the United States of America. The complaint is incomprehensible and fails to state a basis for this Court's subject matter jurisdiction. As a result, the Court will order plaintiff to show cause why this action should not be dismissed.

Rule 12(h)(3) of the Federal Rules of Civil Procedure states: “If the court determines at any time that it lacks subject-matter jurisdiction, the court must dismiss the action.”

Plaintiff brings this action against the United States of America. “To sue the United States, [a plaintiff] must show both a waiver of sovereign immunity and a grant of subject matter jurisdiction.” V S Ltd. P’ship v. Dep’t of Hous. and Urban Dev., 235 F.3d 1109, 112 (8th Cir. 2000). Plaintiff’s complaint shows neither a waiver of the United States’ sovereign immunity nor a basis for this Court’s jurisdiction. As a result, it appears that the Court lacks subject matter jurisdiction.

Because plaintiff is proceeding pro se, the Court will allow plaintiff to file an amended complaint before it dismisses this action. Plaintiff shall have thirty days from the date of this Order to file an amended complaint. Plaintiff is warned that the filing of an amended complaint replaces the original complaint, and claims that are not realleged are deemed abandoned. E.g., In re Wireless Telephone Federal Cost Recovery Fees Litigation, 396 F.3d 922, 928 (8th Cir. 2005). If plaintiff fails to file an amended complaint within thirty days, the Court will dismiss this action without prejudice.

Accordingly,

IT IS HEREBY ORDERED that the Clerk shall mail to plaintiff a copy of the Court's civil complaint form.

IT IS FURTHER ORDERED that plaintiff shall file an amended complaint within thirty (30) days of the date of this order.

IT IS FURTHER ORDERED that if plaintiff fails to comply with this order, the Court will dismiss this action.

IT IS FURTHER ORDERED that plaintiff's "motion to make extraordinary special unto the eradication of such sexual offender [Doc. 2] is **DENIED**.

Dated this 7th day of October, 2011.

/s/Jean C. Hamilton
JEAN C. HAMILTON

UNITED STATES DISTRICT JUDGE